Content of 2014 Chief FOIA Officer Reports

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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

FOIA Training:

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Yes, all Agency employees participated in the Mandatory Online FOIA Training. In addition,

our office provided FOIA training sessions for individual employees and groups throughout the reporting period.

1. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

SBA's FOIA Office held approximately 20 FOIA trainings during this time and the number of participants varied from one to 10. Discussions varied from general FOIA background information to detailed and specific guidance on the FOIA process.

1. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

Yes, all the members of SBA's FOIA professionals attended DOJ FOIA training during the reporting period.

1. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

100 percent of SBA's FOIA professionals attended DOJ's FOIA training during the reporting period.

1. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

All of SBA's FOIA Professionals attend OIP government-wide training sessions that cover all aspects of the FOIA. The FOIA staff routinely distributes information and guidance from these sessions with the Agency's FOIA contacts. For 2015 SBA's FOIA professionals plan to continue attending all of OIP FOIA training sessions.

Outreach:

1. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

While SBA's FOIA professionals did not engage in outreach or dialogue with open government groups, the FOIA staff routinely engages in discussion of its FOIA practices with requesters and clients of the Agency.

Discretionary Disclosures:

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

1. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

   When meeting or consulting with SBA's FOIA contacts, the FOIA Office always encourages the greatest and fullest possible disclosures. SBA' FOIA processing instructions contain guidance on the presumption of openness, transparency and accountability. Disclosure is always encouraged unless the information is clearly exempt from disclosure pursuant to one or more FOIA exemptions. All FOIA responses are reviewed for compliance and when necessary responses have been revised to provide the greatest disclosure.

1. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

   Yes, though the majority of SBA's records pertain to businesses, sole proprietors and individual, we continue to encourage the presumption of disclosure and openness and provide disclosure of non-commercial and non-personal records to the greatest extent possible.

1. What exemptions would have covered the information that was released as a matter of discretion?

   Exemption 5 would have covered the information that was released as a matter of discretion.

1. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

   Internal discussions, analysis, opinions and drafts were released in instances which would not undermine or harm program effectiveness and integrity. Traditionally these types of records were often afforded Exemption 5 protection both at the initial and appellate levels.

   Some of the discretionary releases which SBA has made during FY 13 included the disclosure of some pieces of draft correspondence which traditionally would have been withheld pursuant to Exemption 5 because they were drafts. Other discretionary disclosures included the release of internal discussions and analysis the disclosure of which would have traditionally been withheld solely on the basis of being "internal."

1. If your agency was not able to make any discretionary releases of information, please explain why.

   N/A

Other Initiatives:

1. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

   Yes, all of the required quarterly FOIA reports for Fiscal Year 2013 were posted. However while

the reports were posted, technical difficulties prevented them from being displayed on FOIA.gov

and that after working with OIP/DOJ those difficulties have been resolved with the quarter 1

report for 2014 being successfully posted.

1. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

Both the President's and the Attorney General's Memoranda were immediately disseminated to the Agency's FOIA Service Center Staff (FOIA Contacts) and Public Liaisons. Links to the President's Memorandum and Department of Justice (DOJ) guidance are available on SBA's FOIA Home Page. http://www.sba.gov/about-sba/sba_performance/open_government/foia.

All FOIA processing instructions to FOIA Contacts contains guidance on transparency and accountability. The Agency's FOIA responses are reviewed for compliance with the presumption of openness. Responses that do not comply are re-directed to the appropriate FOIA Contact for reassessment.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

Personnel:

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

One employee has been converted to the new job series.

1. If not, what proportion of personnel has been converted to the new job series?

One third of SBA's FOIA professionals have been converted to the new Government Information Specialist job series.

1. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

Upon consulting with OPM and determining that was not a mandate to convert FOIA position descriptions to the new job series, we have determined that all new hires will be converted to the new job series.

Processing Procedures:

1. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

SBA did not process any requests for expedited processing.

1. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

   SBA receives very few consultations or referrals and therefore has not had a need for interagency agreemments. When SBA does receive a consultation or referral the FOI/PA Office either processes the consultation or referral immediately or refers it within 24 hours to the appropriate SBA office for FOIA processing.

Requester Services:

1. Do you use e-mail or other electronic means to communicate with requesters when feasible?

   Yes

1. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

   Yes

1. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.

   The FOI/PA Office interacts on a continuous and daily basis with its FOIA contacts. As the majority of our interaction is electronic, our office is able to provide efficient and automatic guidance and assistance. In addition, the ability to provide simultaneous guidance to all FOIA contacts enhances and improves SBA's FOIA process.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

   Yes

1. If so, describe the system that is in place.

   The FOIA Contacts provide copies of all FOIA responses. As part of our FOIA process, we review subject matter in order to identify subjects of interest.

1. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

   http://www.sba.gov/about-sba/sba_performance/open_government/other_plans...

Making Posted Material More Useful:

1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

   SBA's websites have all been redesigned for easier access and use by the public.

1. If so, provide examples of such improvements.

   All of the home pages have been updated based upon the needs of the Agency's clients.

1. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

   Yes, SBA utilizes Facebook, Twitter, U-tube and Foursquare for public awareness.

1. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

   Yes, some forms of data are not compliant with Section 508 of the American Disability Act.

1. Describe any other steps taken to increase proactive disclosures at your agency.

   SBA has created a 508 Compliance Committee to address this matter.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

   No, our system does not grant access to requesters.

1. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

   N/A

1. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

   N/A

1. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

N/A

1. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

At this time SBA does not have the budget necessary to establish this capability as we would need to acquire a new software system.

Use of technology to facilitate processing of requests:

1. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Yes

1. If so, describe the technological improvements being made.

SBA employs a FOIA Case Tracking and Correspondence Management System which has the capability to store and share documents.

1. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

A system which is designed to allow requesters to track the status of their requests.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.*

Simple Track Requests:

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

a. Does your agency utilize a separate track for simple requests?

No, SBA does not utilize a separate track but does try to respond to all requests as promptly as possible.

a. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

N/A

a. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Yes.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

1. Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

Yes, at close of Fiscal Year 2013 SBA had a backlog of 1 request compared to a backlog of 43 at the end of Fiscal Year 2012.

a. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

There was no decrease as for both Fiscal Year 2013 and Fiscal Year 2012 SBA did not have a backlog of administrative appeals for either Fiscal Years.

Ten Oldest Requests

a. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

Yes

a. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

N/A

Ten Oldest Appeals

a. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

Yes

a. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

Ten Oldest Consultations

a. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

All Consultations were closed on a timely basis.

a. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

N/A

Reasons for Any Backlogs:

1. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

N/A

a. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

N/A

a. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?

N/A

a. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

N/A

"Ten oldest" Not Closed

a. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.

N/A

a. If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

1. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014.

N/A

1. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.

N/A

Interim Responses:

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

1. Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes, SBA routinely provides interim responses.

1. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Approximately 40 percent.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

No

1. If so, what was the total number of times exclusions were invoked?

N/A

Spotlight on Success

Out of all activities undertaken by your agency since March 2013 to increase transparency and improve FOIA administration, please briefly describe at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to half a page. The success story is designed to be a quick summary of a key achievement. A description of all of your efforts will be contained in the body of your Chief FOIA Officer Report.

SBA's success story for Fiscal Year 2013 was a 41 percent decrease in administrative appeals processed from 22 in Fiscal Year 2012 to 13 appeals in Fiscal Year 2013.

The total number of initial requests for the current reporting period increased 28 percent over the previous year. In Fiscal Year 2013 SBA processed 4,926 initial requests as compared to the 3,848 initial FOIA requests During Fiscal Year 2012.

We credit the reduction in appeals to SBA's FOIA process. SBA's FOI/PA staff interacts continuously with the Agency's FOIA Contacts and routinely provides individualized guidance that emphasizes disclosure. All initial FOIA responses are scrutinized for proper FOIA processing and customer service. Initial responses that do not provide the greatest disclosure or proper FOIA benefits to the requester are designated for a supplemental response or remanded back for a more thorough response. This process has been effective in cultivating an attitude towards greater disclosure and helps produce quality and effective responses that we fee are responsible for the decrease in administrative appeals.